

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**JAMES BROOKS,**

**Plaintiff,**

**v.**

**CORRECTION OFFICER AUSTIN and  
CORRECTION OFFICER WEAVER.**

**Defendants.**

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**CIVIL NO. 09-5773**

**ORDER**

**AND NOW**, this 30th day of June, 2010, upon consideration of Plaintiff's Complaint [Doc. No. 3] and Defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure [Doc. No. 7], it is hereby **ORDERED** that:

1) Defendants' Motion to Dismiss is **GRANTED** in part, **DISMISSED** in part for the reasons stated in the attached Memorandum Opinion. All claims against Defendant Weaver are **DISMISSED** without prejudice, however Plaintiff's claims against Defendant Austin remain; and

2) The above-captioned matter is referred to the Prisoner's Civil Rights Panel for appointment of counsel. While Plaintiff is awaiting counsel, the Clerk of Court is **DIRECTED** to place this matter in **SUSPENSE**.

It is so **ORDERED**.

**BY THE COURT:**

/s/ Cynthia M. Rufe

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**CYNTHIA M. RUFÉ, J.**